

Appendix 2

Ground Rules and Work Plan

Clark Fork River Basin Task Force On a Water Management Plan

Adopted on August 26, 2002

Table of Contents

1.0 Introduction

Ground Rules

2.0 Participants

3.0 Roles and Responsibilities Participant Responsibilities Montana Consensus Council Water Resources Division, DNRC Technical Advisory Committee

4.0 Decision-making Process

5.0 Media Relations and General Communication

Work Plan

6.0 Purpose and Scope of the Process

7.0 Work Sheet – Dates, Activities, and Outcomes

8.0 Preliminary Budget

1.0 Introduction

- 1.1 The 2001 Montana Legislature passed House Bill 397, “An Act Establishing the Clark Fork River Basin Task Force....” The bill, signed into law by Governor Martz, requires the Governor to “[D]esignate an appropriate entity to convene and coordinate a Clark Fork River basin task force to prepare a water management plan for the Clark Fork River basin pursuant to 85-1-203” of the Montana Code Annotated (MCA).
- 1.2 HB 397 also mandated that the entity designated by the Governor shall:
 - A. Identify the individuals and organizations, public, tribal, and private, that are interested in or affected by water management in the Clark Fork River basin;
 - B. Provide advice and assistance in selecting representatives to serve on the task force;
 - C. Develop, in consultation with the task force, appropriate opportunities for public participation in the development of a water management plan; and
 - D. Ensure that all watersheds and viewpoints within the basin are adequately represented on the task force, including a representation from the following:
 - (i) the reach of the Clark Fork River in Montana below its confluence with the Flathead River;
 - (ii) the Flathead River basin, including Flathead Lake, from Flathead Lake to the confluence of the Flathead River and the Clark Fork River. At least one representative from this basin must be a representative of the Confederated Salish and Kootenai tribal government.
 - (iii) the Flathead River basin upstream from Flathead Lake;
 - (iv) the reach of the Clark Fork River basin between the Blackfoot River and the Flathead River;
 - (v) the Bitterroot River basin as defined in 85-2-344, MCA; and
 - (vi) the Upper Clark Fork River basin as defined in 85-2-335, MCA.
- 1.3 In response to this legislation, on July 2, 2001, Governor Martz asked the Montana Consensus Council to “take the lead in organizing, convening, and facilitating a task force to develop a water management plan for the Clark Fork River basin in Montana.”
- 1.4 In passing HB 397, the Legislature provided funding to support its implementation beginning in Fiscal Year 2003, which begins on July 1, 2002. By that date, the Legislature estimated that the statutory upper limit on the Resource Indemnity Trust would be reached, and a portion of the funds flowing into the trust could be diverted to support the preparation of a water management plan.
- 1.5 Beginning in FY 2003, \$120,000 is available to be used for facilitation and process coordination, technical services, and travel expenses for the task force.

Ground Rules

2.0 Participants

- 2.1 As defined by HB 397, participation includes people interested in or affected by water management in the Clark Fork River basin.
- 2.2 Based on a process of self-selection, the following viewpoints, interests and/or stakeholder groups are currently represented on the Task Force:
 - A. Agriculture
 - B. Hydropower
 - C. Conservation/environment
 - D. Tribal government
 - E. Local government
 - F. Flathead River watershed above Flathead Lake
 - G. Flathead Lake
 - H. Flathead River watershed below Flathead Lake to the confluence with the Clark Fork River
 - I. Upper Clark Fork River watershed
 - J. Clark Fork River watershed below the confluence with the Flathead River
 - K. Blackfoot River watershed
 - L. Bitterroot River watershed
 - M. Legislature (*ex-officio*)

The Task Force would also like to see one or more representatives of municipalities in the basin, and someone from the reach of the Clark Fork River between the confluence of the Blackfoot River and the Clark Fork River and the confluence of the Clark Fork River and the Flathead River.

3.0 Roles and Responsibilities

3.1 Participant Responsibilities

- A. Responsibilities to each other.
 - 1. Each participant agrees to candidly identify the interests he/she represents.
 - 2. Each participant agrees to listen carefully and respectfully to the other participants and avoid interrupting other participants.
 - 3. Each participant agrees to offer suggestions with respect and care.
 - 4. Each participant agrees to share relevant public information regarding the issues under consideration.
 - 5. Each participant agrees to communicate with each other directly, rather than through the news media.
 - 6. Each participant agrees to challenge ideas, not people.
 - 7. Each participant agrees to respect the decision of any participant or stakeholder group to withdraw at any time and for any reason.

8. Each participant or stakeholder group agrees to explain to the other participants the reason for withdrawal from the process.
9. Each participant agrees to consider and include the interest(s) of the group as a whole.

B. Responsibilities to constituents.

1. Each participant agrees to:
 - a. Inform and educate other people about the issues and options being addressed by the Task Force, as well as any recommendations that emerge from the Task Force.
 - b. Seek the input and advice of other people on the issues, options, and recommendations being considered by the Task Force.
 - c. *The Task Force may want to develop a public communication and participation plan to further clarify how these provisions will be accomplished.*
2. Each participant agrees, where appropriate, to:
 - a. Identify the interests of the constituents she/he represents.
 - b. Represent and speak for her/his constituents.
 - c. Explain and interpret the process and its proposed outcomes to his/her constituents.
 - d. Keep her/his constituents informed of the ideas and activities emerging from the process.

3.2 Montana Consensus Council

The Montana Consensus Council will provide the following services consistent with its Code of Professional Conduct:

- A. Work with all the participants to design a collaborative problem solving process, including opportunities for public participation.
- B. Train participants in appropriate negotiation, consensus building, and other skills required for a successful process.
- C. Serve as a impartial facilitator during meetings; focus the energy of the group on a common task; protect individuals and their ideas from attack; encourage everyone to participate and share their ideas; help the group find mutual gain solutions; coordinate pre- and post-meeting logistics; and, where necessary, communicate with the participants between meetings.
- D. Enforce the ground rules agreed to by the participants and confront any participant when the Council believes the participant is not acting in good faith and is inhibiting the group from moving forward.
- E. Work in teams to ensure that we effectively coordinate the project.
- F. Respect the confidentiality of private communications with any of the participants.
- G. Prepare and maintain an objective record of the public process, including areas of agreement, disagreement, and strategies for implementation.
- H. Prepare both draft and final documents, and when appropriate, research reports.

- I. Provide consultation to the participants during the process of implementing any agreement, and help the participants amend an agreement during the implementation process.

3.3 Water Resources Division, Department of Natural Resources and Conservation

The Water Resources Division will:

- A. Provide technical information and advice.
- B. Serve as the fiscal agent for the project, reimbursing participants for travel and expenses and otherwise managing the financial resources available to complete the project.

3.4 Advisory Committees

The Task Force may want to create one or more advisory committees to:

- A. Provide technical information and resources.
- B. Seek the input and advice of individual watersheds or sub-basins.
- C. Seek the input and advice of public agencies and other officials that may be responsible for implementing recommendations that emerge from the Task Force.

4.0 Decision-making Process

4.1 General Provisions

- A. Each participant agrees to fully and consistently participate in the process unless they withdraw.
- B. If participants withdraw from the process, they agree to explain their reasons for doing so, and give the Task Force a chance to accommodate their needs and interests.
- C. Each party agrees to fully explore and understand all issues before reaching conclusions.
- D. Each participant agrees to seek creative opportunities to address the interests and concerns of all participants.

4.2 Decision-making Rule

A. Each participant is committed to seeking consensus.

- 1. Consensus is defined as unanimous agreement among all of the participants.
- 2. As a practical matter, the Task Force will seek preliminary consensus on individual issues using the methodology presented in section 4.3.

3. In the final analysis, the Task Force will seek consensus on the overall management plan itself, which will be a compilation or package of all of the individual issues and recommendations. In this context, consensus is reached when the participants agree on the overall management plan, realizing that participants may not agree with all aspects of the management plan, but they do not disagree enough to warrant their opposition.

B. In the process of seeking consensus, each participant:

1. Has the right to disagree with any proposal. When a participant disagrees, she/he agrees to explain the nature of the disagreement, and agrees to offer an alternative that seeks to accommodate her/his interest and the interests of others, if possible;
2. Is committed to supporting implementation of agreements that are reached; and
3. Will maintain his/her values and interests.

4.3 Testing for Agreement

- A. The following scale (or some adaptation of the scale) can be used to test for consensus. Using a series of straw votes, each participant can express their level of comfort and commitment according to the following scale:

1. Wholeheartedly agree
2. Good idea
3. Supportive
4. Reservations – would like to talk
5. Serious concerns – must talk
6. Cannot participate in the decision – must block it

If all the participants fall between 1-3, consensus has been reached. When someone falls between 4-6, that person must assume the burden of clearly articulating their concern to the larger group and offering a constructive alternative.

4.4 Fallback Decision-making Rule

If the Task Force cannot reach consensus, they agree to document the majority and minority viewpoints, clarify the points of disagreement, present options on how the disagreements might be resolved, and move forward.

5.0 Media Relations and General Communication

- 5.1 Each member of the Task Force may speak to the media about his/her own views, but no member may speak on behalf of other participants or the Task Force.

- 5.2 At the request of the Task Force, MCC may periodically prepare press releases, which will be reviewed and approved by the Task Force or its designee before they are issued.
- 5.3 From time to time, the Task Force may ask MCC to prepare fact sheets or issue briefs to help facilitate consistent communication among task force members and other people interested in water management in the Clark Fork River basin.
- 5.4 The Montana Consensus Council will serve as the official spokesperson for the Task Force.

Suggested Work Plan

6.0 Purpose and Scope of the Process

- 6.1 The purpose of the Task Force, as defined by HB 397, is to prepare a water management plan for the Clark Fork River basin that:
 - A. Identifies options to protect the security of water rights.
 - B. Provides for the orderly development of water.
 - C. Provides for the conservation of water in the future.
- 6.2 In the process of developing the water management plan, the Task Force is required to examine existing laws, rules, plans, and other provisions affecting water management in the Clark Fork River basin, including:
 - A. The temporary closure of Bitterroot River sub-basins.
 - B. The closure of the Upper Clark Fork River basin.
 - C. The restrictions on ground water development in the Upper Clark Fork River basin.
 - D. The Upper Clark Fork River basin management plan, adopted as a section of the state water plan.
- 6.3 The Task Force is also required to provide opportunities for public participation in the development of the water management plan.
- 6.4 In developing the work plan, the Task Force should begin with the requirements outlined in statute, along with the issues and concerns raised in the situation assessment.

7.0 Work Sheet – Dates, Activities, and Outcomes

Date	Activity	Anticipated Outcome
July 23, 2002	Task Force Meeting to ... Review purpose, scope, ground rules, and develop preliminary work plan	Agreement on purpose, scope, ground rules, and preliminary work plan.
August 26	Task Force Meeting to ... Review what we know, don't know, and want to know in terms of physical water availability – both surface and ground water in the basin.	
September 30	Task Force Meeting to ... Review water rights in the basin. Who has rights to what? Review private water rights, tribal treaty and reserved water rights, federal reserved water rights, and other.	To understand the status of water rights in the basin.
October 28 31	Task Force Meeting to ... Review regulatory controls in the basin, including but not limited to environmental and endangered species requirements, flood management and control, land management practices, and so on. Submit annual report to the Governor and the Legislature	To understand the implications of regulatory controls on the availability and use of water in the basin.
November 25	Task Force Meeting to ... Review and assess information available on the amount of water “used” in the basin, and for what purpose.	

Date	Activity	Anticipated Outcome
December	<p>Task Force Meeting to ...</p> <p>Consider the implications of the information presented during the previous four months.</p> <p>Identify specific problems and/or opportunities related to the security of water rights, the orderly development of water, and the conservation of water.</p> <p>Articulate desired scenarios for different water users – e.g., agriculture, tribes, instream flow advocates, and so on?</p> <p>What are the needs and interests of different water uses?</p> <p>What are the potential conflicts?</p>	
January 2003	<p>Task Force Meeting to ...</p> <p>Develop options to address problems identified in December.</p>	
February	Task Force Meeting to ...	
Spring, 2004	Public Review and Comment on Preliminary Draft of the Water Management Plan	
June 2004	<p>Task Force meeting to:</p> <p>Review and respond to public input and advice.</p>	
July – August 2004	<p>Prepare final water management plan.</p> <p>Task Force meeting to:</p> <p>Review final plan</p> <p>Sign statement of agreement</p> <p>Develop strategy for implementation</p>	
September 15, 2004	Submit final water management plan to the legislature	Completed water management plan.

8.0 Preliminary Budget
Two year Project (July 2002 through June 2004)

Draft of July 25, 2002 Projected Revenue

RIT Grant (July 2002)	120,000
In-kind contributions	
Montana Consensus Council	-----
Water Resources Division, DNRC	-----
\$120,000 plus in-kind	

Projected Expenses

Montana Consensus Council	32,000
Prepare for Meetings (materials, people, logistics, etc.)	
Facilitate Meetings	
Document Meetings	
Prepare Reports	
<i>Estimated cost for at least 12 months, if not more.</i>	
<i>Additional funds may be needed in year two to</i>	
<i>complete the project and prepare a final report.</i>	
Travel Expenses, Task Force Members	13,500
<i>Estimated costs for two years.</i>	
Technical Assistance and Other Expenses	74,5000
TOTAL	\$120,000